

AMENDED IN SENATE JULY 2, 2015
AMENDED IN ASSEMBLY APRIL 30, 2015
AMENDED IN ASSEMBLY APRIL 20, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1391

Introduced by Assembly Members Gomez and O'Donnell
(Coauthors: Assembly Members Bonta, Chávez, Chiu, Gipson,
Maienschein, Weber, and Williams)
(Coauthors: Senators Runner and Vidak)

February 27, 2015

An act to amend Sections 51210 and 51223 of the Education Code, relating to pupil instruction, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1391, as amended, Gomez. Pupil instruction: adopted course of study: elementary school: physical education: complaints.

Existing law requires the adopted course of study for grades 1 to 6, inclusive, to include instruction in specified areas of study, including physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period. Notwithstanding that provision, existing law provides that instruction in physical education in an elementary school maintaining any of grades 1 to 8, inclusive, shall be for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

This bill would authorize a complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of the physical education adopted course of study for pupils in those grades to be filed with the school district or county superintendent of schools pursuant to the Uniform Complaint Procedures, as specified. To the extent this bill would impose additional duties on school district or county office of education officials, the bill would impose a state-mandated local program.

The bill also would state the Legislature's finding and declaration that the provisions prescribing the requirements for the adopted course of study for grades 1 to 6, inclusive, and for instructional time for physical education in an elementary school maintaining any of grades 1 to 8, inclusive, were not intended to create a private right of action, but would provide that nothing in those provisions ~~are~~ *is* to restrict or expand the existing right of any party to seek relief from noncompliance with them pursuant to a writ of mandate.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51210 of the Education Code is amended
- 2 to read:
- 3 51210. (a) The adopted course of study for grades 1 to 6,
- 4 inclusive, shall include instruction, beginning in grade 1 and
- 5 continuing through grade 6, in the following areas of study:
- 6 (1) English, including knowledge of, and appreciation for
- 7 literature and the language, as well as the skills of speaking,
- 8 reading, listening, spelling, handwriting, and composition.
- 9 (2) Mathematics, including concepts, operational skills, and
- 10 problem solving.

(3) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(4) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.

(5) Visual and performing arts, including instruction in the subjects of dance, music, theatre, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

(6) Health, including instruction in the principles and practices of individual, family, and community health.

(7) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

(8) Other studies that may be prescribed by the governing board.

(b) (1) A complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of paragraph (7) of subdivision (a) may be filed with a school district or county superintendent of schools pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a school district or county superintendent of schools may appeal the decision to the ~~Superintendent~~ *department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations* and shall receive a written appeal decision within 60 days of the ~~Superintendent's department's~~ receipt of the appeal.

1 (3) If a school district or county superintendent of schools finds
2 merit in a complaint, or the Superintendent finds merit in an appeal,
3 the school district or county superintendent of schools shall provide
4 a remedy to all affected pupils, parents, and guardians.

5 (c) The Legislature finds and declares that neither the original
6 provisions of this section, nor any subsequent amendments to it,
7 were intended to create a private right of action. However, nothing
8 in this subdivision shall restrict or expand the existing right of any
9 party to seek relief from noncompliance with this section pursuant
10 to a writ of mandate.

11 SEC. 2. Section 51223 of the Education Code is amended to
12 read:

13 51223. (a) Notwithstanding the provisions of Sections 51210
14 and 51222, instruction in physical education in an elementary
15 school maintaining any of grades 1 to 8, inclusive, shall be for a
16 total period of time of not less than 200 minutes each 10
17 schooldays, exclusive of recesses and the lunch period.

18 (b) (1) A complaint that a school district or county
19 superintendent of schools has not complied with the instructional
20 minute requirements of subdivision (a) may be filed with a school
21 district or county superintendent of schools pursuant to the Uniform
22 Complaint Procedures set forth in Chapter 5.1 (commencing with
23 Section 4600) of Division 1 of Title 5 of the California Code of
24 Regulations.

25 (2) A complainant not satisfied with the decision of a school
26 district or county superintendent of schools may appeal the decision
27 to the ~~Superintendent~~ *department pursuant to Chapter 5.1*
28 *(commencing with Section 4600) of Division 1 of Title 5 of the*
29 *California Code of Regulations* and shall receive a written appeal
30 decision within 60 days of the ~~Superintendent's department's~~
31 receipt of the appeal.

32 (3) If a school district or county superintendent of schools finds
33 merit in a complaint, or the Superintendent finds merit in an appeal,
34 the school district or county superintendent of schools shall provide
35 a remedy to all affected pupils, parents, and guardians.

36 (c) The Legislature finds and declares that neither the original
37 provisions of this section, nor any subsequent amendments to it,
38 were intended to create a private right of action. However, nothing
39 in this subdivision shall restrict or expand the existing right of any

1 party to seek relief from noncompliance with this section pursuant
2 to a writ of mandate.

3 SEC. 3. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

8 SEC. 4. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to protect California public schools from unnecessary
13 lawsuits that take funds away from our classrooms, it is necessary
14 for this bill to take effect immediately.

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